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6 PACIFIC BELL TELEPHONE COMPANY

7
8 UNITED STATES DISTRICT COURT
IN AND FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 PACIFIC BELL TELEPHONE COMPANY

12 Plaintiff,

13 vs.

14 UNITED STATES OF AMERICA, CLARK
15 REALTY BUILDERS, INC., a corporation,
CLARK REALTY BUILDERS, LP, and
16 DOES 1 through 10

17 Defendants.

Case No. C 08-01107 EDL

JOINT CASE MANAGEMENT
STATEMENT

18
19 The parties to this lawsuit submit the following Joint Case Management Statement
20 pursuant to Civil Local Rule 16-9 and this court's standing order:

21 1. Jurisdiction is based upon Federal Tort Claims Act and the United States being a
22 party to this action. There are no issues regarding personal jurisdiction or venue. All named
23 defendants have been served and have appeared.

24 2. This is an action to recover the costs of repairing Pacific Bell's underground
25 cables damaged during construction of housing at Moffett Field, Santa Clara County,
26 California. Plaintiff alleges that the contractor hired by the US Army cut working Pacific
27 Bell telephone cables after the Army and/or NASA employees advised the contractor that

1 there were no working utilities in the location of the work. The principal factual issue
2 appears to be who had responsibility for locating and protecting underground utilities
3 contained in conduits on federal land.

4 3. The legal issue is whether the USA or Clark was negligent in failing to identify
5 and protect the telephone cables from being damaged by the construction activity on federal
6 land.

7 4. No motions are pending or are anticipated at this time.

8 5. No amendments to the pleadings are expected at this time.

9 6. The attorneys have agreed to advise their respective clients to preserve evidence
10 relevant to the issues reasonably evident in this action.

11 7. The parties each have made initial disclosures as required by Fed. R. Civ. P. 26.

12 8. No discovery has been conducted to date. The proposed discovery plan is to
13 complete paper discovery by end of August, percipient witness depositions by the end of
14 September, and any expert depositions by the end of November, 2008.

15 9. This is not a class action.

16 10. There are no related cases pending.

17 11. Pacific Bell is seeking damages of \$77,305.55 which consists of the cost of labor,
18 materials and contractors for repairing the damaged cables and the lost use of the facilities
19 during repairs.

20 12. The parties have agreed to court-sponsored mediation of this matter.

21 13. The parties each have consented to the currently assigned Magistrate Judge for
22 all purposes.

23 14. This case is not for appropriate other references.

24 15. The issues in the case are not complex and no additional procedures are
25 necessary to narrow the issues.

26 16. This case can be handled expeditiously without the need for streamlined
27 procedures.

1 17. The parties propose the following scheduling dates:

2 a. Expert designations – October 15, 2008;

3 b. Discovery cutoff - November 21, 2008

4 c. Dispositive motions filed by - December 23, 2008

5 d. Trial – March 30, 2009

6 18. Defendant Clark has requested jury trial.

7 19. Pacific Bell has filed The Certification of Interested Entities or Persons. Pacific
8 Bell Telephone Company is owned by AT&T, Inc.

9 20. The parties have agreed to mediate this matter in an effort to facilitate an
10 inexpensive disposition.

11 Dated: May 28, 2008

LAW OFFICES OF STEVEN D. RATHFON

12
13 By: _____/s/_____
14 Steven D. Rathfon
15 Attorneys for Plaintiff
16 PACIFIC BELL TELEPHONE COMPANY

17 Dated: May 28, 2008

THELEN REID & PRIEST LLP

18
19 By: _____/s/_____
20 Gregg N. Dulik
21 Attorneys for Defendants Clark Realty Builders, Inc.
And Clark Realty Builders, LP

22 Dated: May 28, 2008

UNITED STATES ATTORNEY'S OFFICE

23
24 By: _____/s/_____
25 Abraham A. Simmons
26 Attorneys for Defendant United States of America
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